



BEFORE THE ELECTRICITY OMBUDSMAN, HARYANA

Bays No. 33-36, Ground Floor, Sector-4, Panchkula-134109

Telephone No. 0172-2572299

Website: <https://herc.gov.in/Ombudsman/Ombudsman.aspx#>

E-mail: eo.herc@nic.in

(Regd. Post)

Appeal No. : 39 of 2025
Registered on : 29.08.2025
Date of Order : 10.12.2025

In the matter of:

Appeal against the order dated 08.07.2025 passed by CGRF, DHBVN Gurugram in case No 4893/2025

SATYA DEVELOPERS PVT. LTD. (HERMITAGE CONDOMINIUM ASSOCIATION)
SECTOR-103, GURGAON, HARYANA THROUGH ITS (PRESIDENT) MR. KAILASH
KUMAR

Appellant

Versus

1. The XEN/OP, City Division, DHBVN, Gurugram

2. SDO, Op. Sub Division, New Palam Vihar, DHBVN, Gurugram

Respondent

Before:

Shri Rakesh Kumar Khanna, Electricity Ombudsman

Present on behalf of Appellant:

Shri Akshay Gupta, Advocate

Present on behalf of Respondents:

Shri Vikram, SDO

Shri Raghav Kakkar, Advocate

Shri Shivpartap Singh Thakur, Advocate

Shri Harshit Bharadwaj, Advocate

ORDER

A. Satya Developers Pvt. Ltd. (hermitage Condominium Association) Sector-103, Gurgaon, Haryana through its (president) Mr. Kailash Kumar has filed an appeal against the order dated 08.07.2025 passed by CGRF, DHBVNL, Gurugram in case No. 4893 of 2025. The appellant has submitted as under: --

The present appeal is filed under Section 42(6) of the Electricity Act, 2003 read with Regulation 3.16 of Haryana Electricity Regulatory Commission (Forum and Ombudsman) Regulations, 2020 by the Appellant against the order dated 09.07.2025 passed by the Ld. CGRF, DHBVN in Case No. 4893/2025, wherein without going through the case records and appreciating the merits of the case, the Ld. CGRF disposed of the case and passed an unreasoned order.

Application for condonation of delay:

1. The Appellant is filing the accompanying appeal before this Hon'ble Ombudsman against the order passed by Ld. CGRF DHBVN Gurgaon (case number 4893-2025) dated 09.07.2025.
2. That the facts and averments contained in the accompanying appeal may kindly be read as part and parcel of the instant application, which are not being repeated here for the sake of brevity.

3. That vide order dated 09.07.2025 , the Ld. CGRF DHBVN Gurgaon , adjudicated the petition filed by the complainant regarding wrong charging on account of difference of tariff.
4. That the appellant received the copy of the order on 10th July-2025.
5. That the Applicant craves the indulgence of this Hon'ble Ombudsman to condone a delay of 16 days in filing the accompanying appeal which has occurred due to inadvertent and Bonafide reasons beyond the control of the Appellant.
6. That prima-facie, the facts and circumstances of the present case are in the favour of the Appellant and the balance of convenience is also in its favour.
7. That it has been consistently held by courts that the cause of substantial justice has to prevail upon the technicalities. The Hon'ble Apex Court in the case titled *Special Tehsildar, Land Acquisition, Kerala Vs. K.V. Ayisumma reported as 1996(10) SCC-634* has inter alia held that "*The Limitation Act made no distinction between the State and the Citizen. None the less, adoption of strict standard of proof leads to grave miscarriage of public justice. The approach of the Court should be pragmatic but not pedantic.*"

It is, therefore, respectfully prayed that the present application be allowed and the delay of 16 days in filing the appeal may be condoned.

MOST RESPECTFULLY SHOWETH:

1. That the Satya Hermitage is group housing society situated in Sec-103 Gurgaon and this is constructed / developed by M/s Satya Developers Pvt Ltd.
2. That the connection bearing account 4937932079 under Bulk Supply Domestic category (sanctioned load-2000 KW) is released in the name of Satya Developer Pvt Limited.
3. That the Hermitage Condominium Association (RWA), Sector-103 is the condo registered under HRRS Act-2012 on 05-Sep-2016 and having registration number HR-018-2016-02706. (copy of registration is attached as P-1).
4. That Mr. Kailash Kumar is the president of the Hermitage Condominium Association and authorized by the Board to file the present case.
5. That the developer has handed over the society to the RWA (although the handover process is not completed so far and under process) and the RWA is managing the day-to-day activity and collecting the maintenance from the residents.
6. That on 04-02-2025, respondent SDO issued the impugned notice to the appellant for charging of Rs. 1089498 (Rupees Ten Lac Eighty Nine

Thousand Four Hundred Ninety Eight) as difference of tariff as per Sales Circular D 17-2020. (Copy of notice attached as P-2).

7. That this notice of charging was given on pretext of a MT-1 Number 24328 - 44, checking done by the respondent SDO.
8. That the appellant visited the office of respondent many a times and requested to withdraw the notice.
9. That the respondent didn't paid any heed and aggrieved with this appellant filed the complaint before the Ld. CGRF DHBVN Gurgaon on 8-05-2025. (Copy of complaint attached as P-3).
10. That the Ld. CGRF disposed off the case vide order dated 9-07-2025, order of the CGRF held as under:

"After considering the reply of both the complainant and SDO and submission made by them in the hearing, the forum observed that it is not a charging of common facilities load as club is excluded from the definition of common facilities, but the club comes under the NDS load as per regulation of HERC 49/2020 point no 2(4) mentioned below: -

"Common Facilities" means the common recreational facilities/ services such common room, society office, street lighting, sewerage treatment plant, ventilation system, common/ parking areas, excluding club, school, convenience stores/ shops etc for the residents of a housing society/ colony/ complexes"

(Emphasis Supplied)

(Copy of order attached and marked as P-4)

11. That if for a moment we consider that the impugned notice issued by the respondent is correct then there is no amount is chargeable because there is the discrepancy in the calculation of charging given by the respondent.
12. That the respondent SDO inflated the charging amount by suppressing the facts.
13. That we have made the calculation as per the annexure -II of Nigam Sales Circular D 17-2020 and Rs 234737 is refundable instead of charging. (Copy of calculation attached as P-5)

GROUND:

1. That the present appeal is filed on the following grounds:
 - i. BECAUSE the Impugned Order is passed in a mechanical manner and against the principles of natural justice and settled principles of law.
 - ii. BECAUSE the order passed by the CGRF is not reasoned one.
 - iii. Because CGRF failed to provide proper opportunity to appellant to contest the case.
2. That no similar appeal has been filed against the Impugned Order.
3. That there is 16 days delay in filing the present appeal and application for condonation of delay is filed separately for kind consideration.

PRAYER

In view of the facts and circumstances as stated above, it is most humbly submitted and prayed that this Hon'ble Forum be pleased to:

- (a) Allow the appeal in favor of the Appellant and set aside the Impugned Order dated 09-07-2025 passed by the Ld. CGRF, DHBVN in Case No. 4893-2025.

- (b) Direct the Respondent recalculate the charging as per the provisions of the sales circular by applying the applicable slab rate and tariff.
 - (c) Direct the Respondents to pay Rs.1,00,000/- towards cost of mental agony and harassment.
 - (d) Pass any such other order(s) as this Hon'ble Forum may deem fit in the interest of justice.
- B.** The appeal was registered on 29.08.2025 as an appeal No. 39 of 2025 and accordingly, notice of motion to the Appellant and the Respondents was issued for hearing the matter on 25.09.2025.
- C.** On 19.09.2025, counsel of respondent has submitted reply which is as under:-
1. That, the present Reply is being filed by SDO Operation Dakshin Haryana Bijli Vitran Nigam, Gurugram (the "Respondent No. 1") and The Executive Engineer Operation, DHBVN, City Division, Gurugram (the "Respondent No. 2") having office at New Palam Vihar Sub-Division, Gurugram, (collectively the "Respondents") to the Appeal filed before the Electricity Ombudsman Haryana bearing Appeal No. 39/2025 (the "Appeal").
 2. That, it is most respectfully submitted that no averments, statements, submissions, grounds, contentions, or allegations made by the Appellant in the Appeal shall be admitted or deemed to be admitted for reason of non-traverse or otherwise save and except these are expressly admitted herein.
 3. That, it is respectfully submitted that the present Appeal cannot be allowed in favour of the Appellant hereto (reasons for which are explained in detail hereunder) as the Appeal in itself, is devoid of any substance and merit and is made with the mala-fide intention to mislead, misguide and misrepresent this Hon'ble Ombudsman.
 4. That, the Appellant has raised objections in the Appeal against the Respondent. Firstly, that Demand Notice of Rs. 10,89,498/- (Ten Lakhs Eighty Nine Thousand Four hundred and Ninety Eight Only) was raised erroneously against M/s Satya Developers Pvt. Ltd. bearing A/c no. 4937932079 under Bulk domestic supply having partial sanctioned load of 2000 KW.
 5. That, the Appellant has contended that it is being erroneously charged for 40 kW NDS Load & 83.6 kW Common Area Load which was found connected in addition to the main supply after the checking team of the Respondents inspected the premises of the Appellant prepared a Report LL-1 No. 24328/44 dated January 24, 2025.

A THIS APPEAL IS BEYOND THE LIMITATION PERIOD, AS THE APPELLANT IS FILING THE APPEAL BEFORE THE HON'BLE ELECTRICITY OMBUDSMAN AFTER A DELAY OF MORE THAN 30 DAYS.

6. That, this appeal is beyond the limitation period. The Appellant is filing this Appeal on August 27, 2025, which is approximately 50 days after the order was passed by the CGRF, DHBVN, Gurugram, dated July 08, 2025. The CGRF Forum held that

the Complainant may file an appeal before the Learned Electricity Ombudsman within 30 days from the date of this order. The relevant extract of the said order is reproduced below for ready reference:

“However, complainant is at liberty to file the appeal before Electricity Ombudsman HERC, Sector-4, Panchkula, in case he/she is not satisfied with the order of the Corporate Forum with 30 day of the receipt of the order of the Corporate Forum.”

7. That, the Appellant has only sought condonation of 16 days in filing the present Appeal before this Hon’ble Forum. It is well settled principle of law as enshrined in the legal maxim *“Vigilantibus Non Dormientibus Jura Subveniunt”* this maxim refers to the obligation of individuals to not only be aware of their rights under the law, but also to be vigilant while exercising or using the same. The legal process only benefits those who have been careful enough with their rights, instead of being ignorant. This maxim expands upon through the Limitation Act of 1963, which entails that if the suffered/ aggrieved party does not file a suit for relief within the stipulated period, for the breach of his rights, then it cannot be claimed at a later stage.
8. That, in the matter of *Pathapati Subba Reddy v. The Special Deputy Collector (LA), 2024 INSC286*, the Hon’ble Supreme Court clarified the principles for condoning delay under the Limitation Act. In that case, the court held that the delay must be explained by showing “due diligence” and a “sufficient cause.” The relevant extract of the judgment is reproduced hereunder:

“The said power to condone the delay or to admit the appeal preferred after the expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc.”

B. THE RESPONDENT HAS FOLLOWED THE DUE PROCEDURE FOR MAKING RECOVERY OF ELECTRICITY DUES FROM THE RESPONDENT

9. That, none of the aforementioned acts are applicable in the present matter. The Respondent has already issued sale circular D-4 of 2013 & D-17 of 2020 wherein the Respondent has categorically mentioned and described the procedure to be followed for calculating the load under the NDS category in case of housing societies. The relevant extract of the sales circular is reproduced hereunder for ready reference:

“6.4 Billing of Single Point Supply

In case an office complex or other non-domestic loads are also existing within the GHS/ Colony, the apportionment of energy (after allowing the rebate) and combined maximum demand for billing under Bulk Supply (Domestic) category and NDS category shall be as detailed in the Annexure-2.”

A copy of calculation as per the sale circular D-17 of 2020 dated August 16, 2022 is annexed hereto and marked as Annexure R-1.

C. THE APPELLANT CANNOT ESCAPE THE LIABILITY TO PAY THE ELECTRICITY DUES FOR THE UNITS CONSUMED UNDER THE NDS CATEGORY AS FOUND IN THE INSPECTION REPORT

10. That, the Appellant has raised baseless contention that the Respondent cannot recover the pending electricity dues from the Appellant according to the Demand Notice dated February 04, 2025 based on the inspection report LL-1 No. 24328/44 dated January 24, 2025, whereby, it was found that 40 KW NDS Load for commercial purpose was running on Bulk Domestic Supply (BLDS) & 83.6 KW Common amenities Load was also connected. Consequently, the Respondent in compliance of the sale circular D-17 of 2020 dated March 24, 2018 raised demand of Rs. 10,89,498/- (Ten Lakhs Eighty Nine Thousand Four hundred Ninety Eight Only). A copy of the Inspection Report LL-1 No. 24328/44 dated January 24, 2025 is annexed hereto and marked as Annexure R-2.
11. That, the Appellant is baselessly contending that the Respondent has falsely charged the Appellant for 83.6 KW for Common Area load. The sale circular D-17 of 2020 dated August 16, 2022 expressly defines the meaning of Common Area/Facilities which The definition of Common Area is reproduced hereunder:

"(4) 'Common Facilities' means the common recreational facilities/services such as common room, society office, street lighting, sewerage treatment plant, ventilation system, common/parking areas, excluding club, school, convenience stores/shops etc. for the residents of a Housing Society/Colony/Complexes."

A copy of the sale circular D-17 of 2020 dated August 16, 2022 is annexed hereto as Annexure R-3.

D THAT THE CGRF HAS CORRECTLY INTERPRETED REGULATION 2(4) OF HERC REGULATION 49/2020

12. That the CGRF has correctly interpreted Regulation 2(4) of HERC Regulation 49/2020, which excludes club, school, convenience stores/shops from the ambit of "common facilities", and held that such facilities attract the NDS tariff. The CGRF has clearly stated in its reasoned order that the impugned charges are in line with prevailing rules. Further, the contention of the Appellant that the Respondent has wrongfully charged the Appellant for 83.6KW common load is baseless as the Respondent has raised the demand by calculating it under domestic tariff rates only and not under commercial category. The upper limit of 15% of sanctioned load as mentioned in sub Clause 6.4 of Sales Circular D-17 of 2020 dated August 16, 2022 means that the consumer can consume with the domestic load.
13. The appellant has failed to make out any grounds to interfere with the well-reasoned order dated July 08, 2025 of the CGRF. There is no merit in the claim for mental agony or harassment, and such relief is neither maintainable before this Hon'ble Forum nor supported by any evidence.
14. The appellant was given adequate opportunity of hearing before the CGRF. All submissions and documents were duly considered. The allegation that the order was passed in a mechanical or arbitrary manner is misconceived and denied.

PRAYER:

In the light of the aforementioned facts and objections this Hon'ble Commission may be please to:

- a. Dismiss the Appeal of Appellant as it is devoid of any merit and has been filed only to usurp the public money.

- b. Dismiss the present Appeal as the Appellant has modified the parties name without taking the leave of this Hon'ble Commission.
- c. Direct the Appellant to deposit the electricity dues in accordance with the Demand Notice dated February 04, 2025.
- d. Pass any Order in the interest of justice.

D. Hearing was held on 25.09.2025, as scheduled. Both the parties were present through Video Conferencing. The appellant counsel has contended that he has basically challenged the charging part calculation as per annexure A-2 of the sale circular D-17/2020.

Further, he has stated that the difference of the tariff that has been calculated while considering the commercial tariff (in case NDS tariff is less than of the 15% of the sanctioned load). NDS consumption should be deducted from the overall consumption of the society and slab rate be applied as per consumption of per dwelling unit. There are certain months wherein the per dwelling unit energy consumption comes out to be less than 800 units for which reduced tariff of Rs. 5.25 per unit is chargeable instead of higher tariff of Rs. 6.20 per unit being levelled for consumption over and above 800 units. In view of above, the appellant is directed to furnish the calculation sheet wherein he feels the above said ambiguity has taken place to the respondent within 7 days and both parties will reconcile the calculation made in the matter as per the provision of sales circular no. D-17/2020 and tariff order applicable from time to time to reverify the calculation made in the matter.

Furthermore, the respondent SDO/Operation, Palam Vihar, Gurugram is further directed to check the provisions of applicability of relevant tariff provisions as well as the provision of municipal tax to the society as per the claim lodged by appellant counsel during the hearing held today i.e. on 25.09.2025 within a fortnight and submit the same with a copy to appellant 3 days prior to the next date of hearing.

The case is adjourned and now will be heard on 17.10.2025.

E. On 25.09.2025 counsel of appellant has submitted as under:-

In compliance with the interim order dated 25.09.2025 passed in Appeal No. 39 of 2025, I, counsel for the appellant, I am hereby submitting the calculation sheet highlighting the discrepancies in the tariff application as directed.

The said calculation sheet reflects (highlighted in blue) the revised position based on deduction of NDS consumption and application of slab rates as per Sales Circular 17-2020 and the applicable tariff orders.

A copy of the same is also being shared with the respondents for reconciliation in terms of the directions of this Hon'ble Office. This may be treated as proof of service.

F. On 10.10.2025, respondent SDO has submitted calculation sheet of M/s Satya Developer having account no. 4937932079.

G. On 15.10.2025, respondent SDO has as under:-

"in compliance of order dated 25.09.2025, the appellant advocate Sh. Akshay Gupta submitted a calculation sheet. Considering the commercial tariff after

deduction of NDS connection from the overall consumption and slab rate be applied as per consumption of per dwelling unit.

The calculation sheet provided by advocate Sh. Akshay Gupta thoroughly check and this office prepared a revise calculation sheet for all the month (copy attached). As per revised calculation sheet an amount of Rs. 4,50,710 is adjustable.

This is for submitted for your kind information and taking further necessary action please.”

H. On 17.11.2025, counsel of appellant has submitted as under:-

In reference to the email received regarding the compliance report submitted by the SDO/Operation, Palam Vihar, I respectfully submit the following observations for consideration:

1. As per the Interim Order dated 25.09.2025, the respondent was specifically directed to check the complete calculation and submit a detailed statement of calculation strictly in accordance with Sales Circular D-17/2020, along with verification of tariff applicability and municipal tax provisions. However, the document submitted by the respondent does not qualify as a compliance report.
2. Instead of furnishing the detailed calculation report as directed, the respondent has merely filed a reply (termed as compliance report) , similar to the one previously submitted in response to earlier directions. This is not in conformity with the clear mandate of the Interim Order.
3. In the reply dated 15.10.2025, the respondent has attempted to recalculate the billing but has introduced new components such as “fixed charges,” which were never levied earlier. This appears to be an afterthought, seemingly introduced only to reduce the legitimate refund amount payable to the appellant . Such unilateral additions, without any basis in previous billing practice or the applicable circular, are contrary to the directions of this Hon’ble Authority.
4. The respondent has still not provided
 - i. Month-wise reconciliation as required under Sales Circular D-17/2020
 - li. Separate complete detail of NDS charges
 - lii. Segregation of consumption per dwelling unit and corresponding slab-wise billing after differentiate the NDS and DS consumption.
 - Iv. Detailed justification for newly added charges
 - V. Refund of MC charges which were not leviable as per the regulations till Jan-2021.
5. We are also enclosing the copy of the EV Charging Station agreement which clearly establishes that the NDS load considered by the respondent from 2018 is incorrect. The electric vehicle charging station agreement was signed in March-2023 for installation of charging station which confirms that the charging station was installed only after this , and therefore the imposition of NDS-related load or tariff components for the period prior to 2023 is factually and legally unsustainable. In similar matter titled as Aura versus DHBVN the respondent has corrected the

charges levied as per the date of installation of the EV charging Station and refunded the excess charges.

Further as per HERC Regulation Regulation No. HERC/55/2021: - Para (18)(D)(1) of the same regulations clarifies that “ The tariff applicable for charging of Electric Vehicle at premises other than charging stations shall be the same as applicable for the relevant category of connection at such premises as such the tariff applicable for the EV load is BSDS not the NDS..

In view of the above, I humbly request that the respondent may kindly be directed to submit a complete and consolidated reply/ overhauling of account, containing:

- Detailed month-wise calculations
- Application of tariff slabs as per D-17/2020
- Correct NDS load applicability
- Removal of charges that were never levied earlier
- Refund of MC tax charges levied till Jan-2021.

This will enable the appellant to examine the calculations in one go and file a rejoinder, if required, before the next date of hearing.

I request that appropriate directions be issued to ensure meaningful compliance with the Interim Order.

- I.** On 21.11.2025, SDO respondent has submitted reply in compliance of the order dated 25.09.2025 which is as under:-
1. That the present reply is being filed in compliance of interim order dated 25.09.2025 passed by this Hon'ble Forum.
 2. It is submitted that, the Hon'ble forum directed the SDO'OP' New Palam Vihar subdivision to check the provisions of applicability of relevant tariff provisions as well as the provision of Municipal Tax to the society as per the claim lodged by Appellant during the hearing held on dated 25.09.2025.
 3. The revised calculation sheet of billing after bifurcation of NDS unit billed and DS unit billed and slab benefit given to the consumer has already been submitted by SDO 'OP' New Palam Vihar Sub Division through email dated 10.10.2025. Copy again attached as Annexure-A.
 4. Calculation of M.Tax to the society as per the claim lodged by appellant counsel during the hearing held on dated 25.09.2025 is attached as Annexure-B.
 5. Without prejudice to the Respondent's submissions contained in paragraphs 4 above, and solely in compliance with the directions issued by this Hon'ble Court, the Respondent is submitting the M.Tax calculation as mandated by the order dated 25.09.2025. It is most respectfully clarified that the furnishing of the M.Tax calculation shall not, in any manner, be construed as an admission of the refund to the

Appellant as the appellant not demanded for M.Tax refund in the CGRF complaint as well as in the appeal filed by the appellant before the Hon'ble court.

In light of the above, it is respectfully submitted that, while adjudicating the present matter, this Hon'ble Forum may be pleased to take into consideration the matter highlighted hereinabove. In view of these aspects, it is submitted that this Hon'ble Commission may be pleased to, inter alia, reject the Appellant's prayer pertaining to M.Tax refund.

- J.** On 24.11.2025, counsel of appellant has rejoinder on behalf of the appellant to the reply filed by the respondents dated 20.11.2025.

The Appellant most respectfully submits this Rejoinder to the false, misleading, evasive and legally unsustainable reply filed by the Respondents and states as under:

1. That the contents of the reply filed by the Respondents are wrong, incorrect, misconceived, self-serving and are hereby vehemently denied in toto, except those specifically admitted herein. The Respondents have deliberately attempted to mislead this Hon'ble Forum by misinterpreting statutory provisions and circulars to escape their continuous and illegal liability.
2. The Appellant filed the present appeal against the order passed by the Ld. CGRF on 09.07.2025. It is respectfully clarified at the outset that the Appellant is challenging the charging made by respondent as per Sales Circular D- 17/2020. The Appellant fully accepts the legal framework and guidelines laid down under the said circular and HERC parent Regulation.
3. The sole and limited grievance of the Appellant pertains to the incorrect, arbitrary and legally flawed calculation made by the Respondent while assessing the alleged NDS load and raising consequent demand. The challenge is confined strictly to the computational methodology and tariff application adopted by the Respondent.
4. The Ld. CGRF did not apply its judicial mind to the core issue raised by the Appellant, namely, the correctness of the methodology adopted while calculating the NDS load and the consequential charging. The impugned order therefore suffers from non-application of mind and is contrary to the principles of natural justice, fair play and the settled procedure required to be followed by a quasi-judicial authority.
5. The approach of the CGRF clearly demonstrates procedural impropriety, as no reasoned analysis has been provided regarding the disputed calculation despite it being the central issue in controversy.
6. It is submitted that while making any assessment or recalculation of NDS load as per Sales Circular D 17-2020, the Respondent is legally bound to apply tariff strictly in accordance with the applicable HERC Regulations and Tariff Orders issued from time to time. Any deviation from such statutory tariff structure is impermissible.

In the present case, the Respondent has violated both:

- The instructions contained in the Nigam's own Sales Circulars, and
- The binding tariff provisions notified by HERC under the Electricity Act, 2003.

Instead of adopting the correct slab-wise tariff, the Respondent has arbitrarily applied incorrect tariff rates, resulting in an inflated and illegal demand of approximately Rs. 11,19,118 (Rupees Eleven Lakhs).

Such assessment is not only contrary to the sales circular but also violative of the statutory provisions under the Electricity Act, 2003, which mandates that tariff determination must strictly follow regulatory guidelines.

7. It is respectfully submitted that the matter was heard on 25.09.2025, during which the Appellant furnished detailed calculations and clearly demonstrated to the Respondent the specific errors in its assessment methodology. The Appellant also explained the exact manner in which the Respondent was required to recalculate the charging from the year March-2018 to Jan-2025 strictly as per HERC Regulations and Sales Circular D-17/2020. A comprehensive Excel sheet containing the correct method of computation was also shared with the learned counsel for the Respondent as well as the Respondent SDO during the proceedings.
8. Pursuant thereto, this Hon'ble Ombudsman passed an Interim Order dated 25.09.2025 directing the Respondent SDO/Operation, Palam Vihar, Gurugram to check the applicability of relevant tariff provisions and municipal tax and to submit the same within a fortnight with a copy to the Appellant three days prior to the next date of hearing.
9. However, instead of complying with these clear directions, the Respondent has chosen to act in a manner aimed at misleading this Hon'ble Ombudsman. The Respondent submitted a fresh calculation sheet which:
 - (a) Covers only 4 to 6 months instead of the entire period from 2018 to 2024 for which short assessment has been raised;
 - (b) Introduces new "fixed charges" which were never levied earlier, solely to artificially reduce the refund amount;
 - (c) Admits excess recovery of approximately Rs. 490884/- for the limited months calculated;
 - (d) Discloses wrongful levy of municipal tax in contravention of regulations, amounting to approximately Rs. 1,77835/- as refundable.
10. The selective calculation for a narrow period and the arbitrary insertion of new components is a deliberate attempt to distort the real financial impact and suppress the true extent of unlawful overcharging. Such conduct reflects lack of bona fide on part of the Respondent and demonstrates wilful defiance of the binding directions issued by this Hon'ble Authority.
11. Continued Failure to Provide Mandatory Details
The Respondent has still failed to submit the following, despite express directions:

- (i) Complete month-wise reconciliation strictly as required under Sales Circular D-17/2020;
- (ii) Separate and detailed computation of NDS charges;
- (iii) Segregation of consumption per dwelling unit and corresponding slab-wise billing after appropriately differentiating NDS and domestic consumption;
- (iv) Detailed justification for the newly introduced charges;
- (v) Refund of Municipal Corporation (MC) charges levied till January 2021, though the same were not leviable under the prevailing regulations.

12. Incorrect Levy of NDS Load prior to Installation of EV Charging Station

The Appellant has also enclosed the Electric Vehicle (EV) Charging Station Agreement, which clearly establishes that the charging station was installed only pursuant to the agreement executed in March 2023. Therefore, the consideration of NDS load from the year 2018 onwards is factually incorrect and legally unsustainable. The imposition of NDS-related tariff components for the period prior to 2023 is baseless and arbitrary.

In similar matters, including "Aura vs DHBVN" EO Appeal No-24-2025, the Respondent itself corrected the assessment based on the actual date of installation and refunded excess charges, which further establishes inconsistency and discriminatory approach.

13. Applicability of Tariff for EV Charging Load

As per HERC Regulation No. HERC/55/2021, Para (18)(D)(1), it is clearly provided that:

"The tariff applicable for charging of Electric Vehicle at premises other than charging stations shall be the same as applicable for the relevant category of connection at such premises."

Thus, even otherwise, the tariff applicable for EV load at the Appellant's premises should fall under Bulk Supply Domestic Supply (BSDS) and not NDS. The Respondent's contrary action is in patent violation of statutory regulations.

14. Misleading Statement regarding MC Tax Issue

As per Nigam Sales Circular D 1-2018-

"Govt. of Haryana vide gazette Notification No. Leg.34/2017 & Leg. 35/2017 both dated 23/11/2017 has issued "The Haryana Municipal Corporation (Second Amendment) Act, 2017" and "The Haryana Municipal (Second Amendment) Act, 2017, respectively (Copy Enclosed). In the ibid notifications, the Municipal tax to be levied on consumption of electricity by consumers falling within the municipal limits has been amended as under:-

"A tax on consumption of energy at a rate of two percent of the electricity bill consumed by any person within the Municipal area/ Limits of Municipality". (Copy of Sales Circular attached as E-1)

MC Tax is the tax collected by Electricity board for Municipal corporation/ council and this tax is levied only on the consumer whose premises falls under the jurisdiction of MC.

The area of the complainant falls outside the MC jurisdiction and which was comes under the Municipal Corporation Gurgaon on 5-1-2021 , Through a gazette notification. (Copy of the notification attached as E-2) as such the respondent can not recover/ charge the MC tax for a period prior to 5-1-2021.

Further the Respondent has attempted to justify non-consideration of MC Tax by stating that such issue was not raised before the CGRF. This statement is incorrect and misleading. MC Tax and ED fixed charges are integral components of the tariff structure and must necessarily form part of any lawful assessment undertaken under the NDS load review. Hence, the Respondent cannot escape scrutiny on this issue.

Furthermore, the Respondent's own Reply & Affidavit demonstrates its rigid and mechanical approach in applying Sales Circular D-17/2020 without conducting proper reconciliation as directed by the Hon'ble Ombudsman.

15. That it is further submitted that the Respondent, by raising an arbitrary and patently illegal demand, wrongfully compelled the Appellant to deposit an amount charged towards alleged NDS charges, whereas on correct application of tariff and reconciliation, the Appellant is in fact entitled to a refund of approximately ₹2,00,000/- to ₹3,00,000/-. Despite this, the Appellant, under coercion and to avoid punitive disconnection, was forced to make payment of the entire undue demand of ₹11,19,118/- during the months of Jul-2025 It is therefore prayed that this Hon'ble Ombudsman be pleased to direct the Respondent to adjust the illegally recovered surcharge amount and further grant interest on the said sum from the date of forced payment till actual realization, as interest flows as a natural consequence of wrongful retention of money. Reliance is placed on the settled principle that interest on refundable amounts is payable even if not explicitly mentioned, as has also been affirmed by the Haryana Electricity Regulatory Commission in its Interim Order dated 07.11.2025, observing that such interest remains payable in accordance with applicable regulations.

Reliance is also placed upon the judgment passed by the Hon'ble High Court of Punjab and Haryana in the matter of- *M.G. Stone Crusher versus Punjab State Power Corporation Limited & Ors.* [2024 SCC On Line P&H 5851] wherein the Hon'ble High Court of Punjab & Haryana has categorically held- "12. It is a well settled principle in law that "equity follows the law". The above said legal maxim "aequitas sequitur legem" emphasizes that equity or fairness should be applied in accordance with law. Equity should thus compliment established legal principles. In legal terms, it would mean that if a contract or agreement includes clauses that establish liability or obligations for one party, those clauses could potentially extend benefits to that party; if circumstances arise where they are entitled to benefits under the agreement."

So the respondent is bound to refund the illegal amount charged from the appellant along with 18% P/a interest from Jul-2025 till realization.

16. Consistency with Original Appeal

The Appellant respectfully reiterates that the entire dispute arises due to incorrect application of Sales Circular D-17/2020 and misinterpretation of the tariff provisions, as already detailed in the main Appeal. The Respondent's conduct

shows a deliberate attempt to mislead this Hon'ble Authority by filing incomplete and non-speaking calculations.

In view of the above, I humbly request that the respondent may kindly be directed to submit a complete and consolidated reply/ overhauling of account, containing:

- ☐ Detailed month-wise calculations
- ☐ Application of tariff slabs as per D-17/2020
- ☐ Correct NDS load applicability after the EV load from 2023 instead from 2018.
- ☐ Removal of charges that were never levied earlier
- ☐ Refund of MC tax charges levied till Jan-2021.

K. Hearing was held on 24.11.2025 as re-scheduled. At the very onset the respondent SDO and the counsel informed that they had complied with the interim order that was passed on dated 25.09.2025 in the *ibid* appeal. The respondent raised the contentions regarding the applicability of the M.tax to the consumer and were not aware of the notification made in the matter by the Government of Haryana. The appellant counsel raised the issue that the refund that has been made is not as per his request and calculation sheet submitted. It was further contended that DHBVN authority have only considered six months instead of checking out the entire calculation w.e.f. 2018 onwards. Further he intimated that the appellant was served upon a notice by the respondent vide letter bearing memo no. 4637 dated 04.02.2025 for a sum of Rs. 11,19,118/- which they had submitted with the DHBVN in the month of July, 2025 as the sundry of Rs. 12,73,824/- was reflected in their bill subsequently. He claimed that it was unfair and unethical on the part of the respondent to get the amount charged by not going through the factual matrix of the case as the NDS load mentioned was installed in year 2023 itself for which the required documents already stands submitted to the respondent SDO.

He further informed that the M.tax notification issued by the Govt. of Haryana in the matter vide their order bearing notification no. LEG.34/35/2017 dated 23.11.2017 in compliance to which DHBVN issued sale circular no. D-1/2018. He has also submitted a document signed by Sh. Vinay Partap Singh, IAS, Commissioner Municipal Corporation, Gurugram dated 05.01.2021 regarding newly included area in Municipal Corporation, Gurugram in compliance to Govt. Notification No. SO-59/HA-16/1994/S.3/2020 dated 28.12.2020.

The respondent counsel and respondent SDO were again asked by Electricity Ombudsman if they had checked the entire calculation with effect from date of connection (DOC) to date. Thereafter, the respondent SDO admitted that he has given the benefit to the appellant only for the six months that were highlighted by the appellant counsel in his submitted calculation sheet which shows irresponsible attitude and concealment of the fact while submitting the reply before the Electricity Ombudsman in the shape of affidavit was viewed very seriously by Electricity Ombudsman and it was apprehended that *"if the attitude of the Nigam officers in respect of consumer appearing in appeal before Electricity Ombudsman have to run from pillar to post what could be expected about the other consumers who are not well informed."* Keeping in view the gravity of the matter and taking into cognizance the interest of the general consumer who are knowingly or unknowingly made victim by way of charging irregular irrational and arbitrary tariff wherein only charges are levied without giving any refund the following is directed to the respondent: -

A. Directions imparted in the ibid appeal no. 39 of 2025 titled Satya Developers Pvt. Ltd. vs. DHBVNL.

- (i) The respondent SDO will get the entire calculation checked and ledger prepared in respect of the connection of M/s Satya Developers Pvt. Ltd. in the ibid appeal w.e.f. date of connection to date.
- (ii) The respondent SDO will get the authenticity of the documents regarding inclusion of other areas submitted by the appellant counsel verified for its authenticity and legality. Based on the outcome the M.tax charged shall be got revised and any amount already paid shall be refunded.
- (iii) It is worthwhile to mention that electric vehicle charger in a township becomes only operational after the installation. Therefore, the installation date to be informed by the appellant duly supported with the installation documents shall be treated as the reference document for calculation of NDS tariff applicable on the township.
- (iv) The NDS tariff shall be excluded from the consumption while calculating the consumption of per flat in compliance to sale circular no. 17/2020 so that the benefit due to the residents is also passed on. The NDS connection is to be billed on KVAH reading as per the provision of tariff order issued from time to time.
- (v) The charging for an amount of Rs. 11,19,118/- vide memo no. 4637 dated 04.02.2025 based on LL-1 No. 44/24328 dated 04.01.2025 will be rechecked by the respondent SDO and the notice of charging will be revised. Furthermore, the excess charges or surcharge claimed over the said amount will also be duly accounted for in the calculation.

The certified copy of the compliance made duly audited by the auditing wing of the DHBVN shall be submitted within a time span of 15 days separately in the interest of the justice and to dispose of the appeal.

B. Directions imparted in the interest of general public customers under Operation Sub Division, Palam Vihar.

The respondent SDO will recheck each and every group housing society connection wherein the charges on the basis of sales circular no. 17/2020 have been made by him under the jurisdiction of his Operation Sub Division, Palam Vihar. The decision passed in various cases by way of final order/interim order etc. such as Mahindra-Aura, Brisk Lumbini, Satya Developers etc. shall be taken as a reference.

The certified copy of the compliance made duly audited by the auditing wing of the DHBVN shall be submitted within a time span of 45 days separately in the interest of general public.

The final order shall be pronounced in the matter after 10.12.2025 after receiving the compliance from respondent SDO duly verified by the auditing authority of DHBVN through Executive Engineer/Operation, City Division, DHBVN, Gurugram upto 08.12.2025 (not to be extended further in any circumstances).

L. The compliance report in respect of part A of the interim order dated 24.11.2025 has been received from the respondent Executive Engineer Xen/Operation Division, DHBVN, Gurugram wherein all the points pertaining to the part A of the interim order have been addressed with leading to a final settlement of net payable amount by the respondent toward the appellant worked out as annexure A with the audited copy of annexure A attached with the reply submitted vide email dated 08.12.2025 at 3:46 P.M. The grouse of the appellant stands addressed in totality.

Regarding the part B of the interim order the compliance report is to be submitted on or before January 8, 2026.

Decision

In view of the above forgoing, it is decided as under: -

1. In view of the affidavit filed by Sh. Manoj Kumar, S/o Sh. Hawa Singh presently working as Executive Engineer operation city Division, DHBVN, Gurugram. The various issues raised by the appellant stands addressed as per the attached annexure A.
2. The respondent department is required to adjust the amount as mentioned in the annexure A payable to the appellant shall be adjusted in the next bill of the appellant within a time period of 30 days otherwise respondent will pay the interest (as charged by the respondent on the unpaid bills to the consumer in shape of surcharge) @18% to the appellant.
3. The instant order be also taken into the record while completing the exercise as directed in the part B of the interim order dated 24.11.2025.
4. It is the duty of the respondent SDO and Executive Engineer, DHBVN, Gurugram to ensure compliance of the circulars and ensure proper billing of the consumer in inordinate charging from the consumer by wrong interpretation of the sale circular or the tariff order passed be avoided in future otherwise this office will be forced to fix the personal responsibility for deliberate non-compliance.

The instant appeal is disposed of accordingly.

Both the parties to bear their own costs. **However executive engineer/operation City Division, DHBVN, Gurugram will ensure and submit the report regarding compliance of part B of the interim order duly audited in shape of affidavit in the best interest of the consumer under his jurisdiction.**

File may be consigned to record.

Given under my hand on 10th December, 2025.

Sd/-

(Rakesh Kumar Khanna)
Electricity Ombudsman, Haryana

Dated:10.12.2025

CC-

Memo No.2124/EO/HERC/Appeal No. 39/2025

Dated: 10.12.2025

To

1. Satya Developers Pvt. Ltd. (Hermitage Condominium Association) Sector-103, Gurugram, Haryana (Email akshay.gupta786@gmail.com)
2. The Managing Director, DHBVN, Hisar (Email md@dhbvn.org.in).
3. Legal Remembrancer, Haryana Power Utilities, Panchkula (Email lr@hvpn.org.in).
4. The Chief Engineer Operation, DHBVN, Delhi (Email ceopdelhi@dhbvn.org.in).
5. The SE/OP, Circle, Gurugram-I, DHBVN, Gurugram (Email seop1gurugram@dhbvn.org.in)
6. The XEN/OP, City Division, DHBVN, Gurugram (Email xenopcitygurugram@dhbvn.org.in)
7. SDO, Op. Sub Division, New Palam Vihar, DHBVN, Gurugram (Email sdoopnewpalamvihar@dhbvn.org.in)

